IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.M. No.31048-M of 2007

Date of Decision: 17.5.2007

Gurdev Singh

....Petitioner.

Versus

Senior Superintendent of Police, Jalandhar and others.

...Respondents.

Present:- Mr.H.S.Bakshi,Advocate
for the petitioner.

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S.S.SARON, J.(ORAL)

This petition has been filed under Section 438 Cr.P.C. for issuance of directions to respondents No.1 & 2 to record the statement of petitioner and to register a case against the private respondents No.4 to 18 under the relevant provisions of IPC and in any case, to take cognizance of the version of the petitioner and to take necessary action.

During the course of hearing learned counsel for the petitioner has submitted that from the petitioner's side only the statement (Annexure P8) of Bhajan Singh son of Kapoor Singh has been recorded. However, the statement of Gurdev Singh who is the main injured witness and has received the gandasa blow on his head inflicted by Amrik Singh has not been recorded. Learned counsel has referred to OPD slip in respect of Gurdev Singh dated 8.4.2007 (Annexure P5) and the CT Scan report dated 7.4.2007 (Annexure P6).

After giving my thoughtful consideration to the matter it is

appropriate to note that the matter is being investigated by the police. This court in exercise of its inherent jurisdiction under section 482 Cr.P.C. has normally not to interfere with the investigation as that is the domain of the investigating agency. The Hon'ble Surpeme Court in State of Haryana v. Bhajan Lal, AIR 1992 Supreme Court 604, has observed as follows:

> "The investigation of a cognizable offence is the field exclusively reserved for the police officers whose powers in that field are unfettered so long as the power to investigate into the cognizable offences is legitimately exercised in strict compliance with the provisions falling under Chapter XII of the Code and the Courts are not justified in obliterating the track of investigation when the investigating agencies are well within their legal bounds as aforementioned. Indeed, a noticeable feature of the scheme under Chapter XIV of the Code is that a Magistrate is kept in the picture at all stages of the police investigation but he is not authorised to interfere with the actual investigation or to direct the police how that investigation is to be conducted. But if a police officer transgresses the circumscribed limits and improperly and illegally exercises his investigatory powers in breach of any statutory provision causing serious prejudice to the personal liberty and also property of a citizen, then the Court on being approached by the person aggrieved for

> the redress of any grievance, has to consider the nature and extent of the breach and pass appropriate orders as may be called for without leaving the citizens to the mercy of police echelons since human dignity is a dear value of Constitution. It needs no emphasis that no one can demand absolute immunity even if he is wrong and claim unquestionable right and unlimited powers exercisable up to unfathomable cosmos. Any recognition of such power will be tantamount to recognition of `Divine Power' which no authority on earth can enjoy."

A perusal of the above shows that where the police officer transgresses the circumscribed limits and improperly and illegally exercises his investigatory powers in breach of any statutory provision causing serious prejudice to the personal liberty and also property of a citizen, then the Court on being approached by the person aggrieved for the redress of any grievance, has to consider the nature and extent of the breach and pass appropriate orders.

In the circumstances, the petitioner has the remedy of approaching the Illaqa Magistrate for the redressal of his grievance after ascertaining as to whether the investigating officer has improperly exercised their investigatory power. Even otherwise the petitioner has a remedy of filing a private complaint. In the circumstances, it would be improper to interfere with the investigation by this Court in exercise of its inherent jurisdiction under Section 482 Cr.P.C. at this stage for the present.

Accordingly with the above observations the criminal

miscellaneous petition stands disposed of.

(S.S.SARON)
JUDGE

May 17,2007
Reema